

---

**TITLE 312 NATURAL RESOURCES COMMISSION**

**Notice of Intent to Adopt a Rule**

LSA Document #06-605

Under [IC 4-22-2-23](#), the Natural Resources Commission intends to adopt a rule concerning the following:

**OVERVIEW:** Amends [312 IAC 11-5-2](#), which governs lawful nonconforming uses for structures subject to licensure under [IC 14-26-2](#) (commonly known as the "Lakes Preservation Act"), to provide greater specificity to the processes used to evaluate lawful nonconforming uses, to clarify that the person claiming a lawful nonconforming use has the burden for establishing conformity, to clarify that the Department of Natural Resources has the burden for establishing that a lawful nonconforming use should be terminated if the Department contends it poses a nuisance or has been abandoned, and to clarify that a temporary structure can qualify as a lawful nonconforming use. Amendments are also made to acknowledge that the seasonal removal of a structure does not constitute abandonment, to provide that a person who wishes to assert the benefits of a lawful nonconforming use for a pier that exceeds 150 feet long (or that exceeds 300 feet long on Bass Lake in Starke County) must submit documentation by January 1, 2010, and to specify that an abandoned structure is disqualified from treatment as a lawful nonconforming use. Clarifies that the Department must issue a complaint or seek emergency relief based upon a contention a lawful nonconforming use must be removed, but the Department may serve a notice of violation if an unlawful nonconforming use is placed or maintained or if a lawful nonconforming use is modified or repaired without authorization. Effective 30 days after filing with the Publisher. Questions and comments may be sent to the Division of Hearings, Natural Resources Commission, Indiana Government Center-South, 402 West Washington Street, Room W272, Indianapolis, Indiana 46204-2739, at [slucas@nrc.in.gov](mailto:slucas@nrc.in.gov), or by telephone at (317) 233-3322. Statutory authority: [IC 14-10-2-4](#); [IC 14-15-7-3](#); [IC 14-26-2-23](#).

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Maj. Samuel Purvis  
Indiana State Boating Law Administrator  
Department of Natural Resources  
Indiana Government Center-South  
402 West Washington Street, Room W 255D  
Indianapolis, IN 46204  
(317) 232-4010  
[spurvis@dnr.in.gov](mailto:spurvis@dnr.in.gov)

*Posted: 01/10/2007 by Legislative Services Agency*

An [html](#) version of this document.